

Dario Jaime Gonzalez dba Dario's Tire Shop

RN110294444 and RN110393667

Docket No. 2018-0832-MSW-E

Order Type:

Default Order (SOAH preliminary hearing)

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5003 North Farm-to-Market Road 88, Weslaco, Hidalgo County (RN110294444) (Site 1)

917 South Alamo Road, Alamo, Hidalgo County (RN110393667) (Site 2)

Type of Operation:

scrap tire storage sites and scrap tire facilities

Other Significant Matters:

Additional Pending Enforcement Actions: 2019-1085-MSW-E

Past-Due Penalties:	\$9,545 (2017-0137-MSW-E)
	\$12,480 (2018-0075-MSW-E)

Past-Due Fees:	None
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Other:	None
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Interested Third-Parties:	None
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Texas Register Publication Date:	November 12, 2021
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$39,250
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Total Paid to General Revenue:	\$0
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Total Due to General Revenue:	\$39,250
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Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source:	Yes
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	April 2014
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Dario Jaime Gonzalez dba Dario's Tire Shop

RN110294444 and RN110393667

Docket No. 2018-0832-MSW-E

Investigation Information

Complaint Date(s):	November 20, 2017 (Site 1); March 14, 2018 (Site 2)
<i>Complaint Information:</i>	Alleged illegal collection of tires at a tire shop, tires being cut up, and tire shop improperly operating (Site 1). Alleged an entity was storing more than 500 tires on the ground (Site 2).
Date(s) of Investigation:	December 18, 2017 through January 2, 2018 (Site 1) May 1, 2018 (Site 2)
Date(s) of NOV(s):	N/A
Date(s) of NOE(s):	March 23, 2018 (Site 1); June 29, 2018 (Site 2)

Violation Information

1. Site 1:
 - a. Failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a)]. Specifically, approximately 14,488 used or scrap tires were observed on the ground.
2. Site 2:
 - a. Failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.56(a)(1)]. Specifically, approximately 1,540 used or scrap tires were observed on the ground.
 - b. Failed to obtain a scrap tire registration for the facility prior to processing tires onsite [30 TEX. ADMIN. CODE § 328.63(c)].
 - c. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks [30 TEX. ADMIN. CODE § 328.56(d)(4)].
 - d. Failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility [30 TEX. ADMIN. CODE § 328.58(a)]. Specifically, Respondent did not complete information pertaining to the number of tires removed, generator registration number, or the destination of all used or scrap tires on their scrap tire manifests.

Dario Jaime Gonzalez dba Dario's Tire Shop

RN110294444 and RN110393667

Docket No. 2018-0832-MSW-E

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Site 1:
 - a. Immediately cease storage, processing, or disposal of any additional MSW at the facility until such time as proper registration is obtained.
 - b. Within 30 days:
 - i. Obtain a scrap tire storage registration for the facility; or
 - ii. In lieu of Technical Requirement No. 1.b.i. reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers; or
 - iii. Remove all MSW from the site and dispose of it at an authorized facility.
 - c. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. and 1.b.
2. Site 2:
 - a. Immediately:
 - i. Cease storing, processing, or disposing of any additional MSW at the facility until such time as proper registration is obtained; and
 - ii. Establish and implement a recordkeeping system that maintains a record of each individual load of used or scrap tires or tire pieces transported from the facility.
 - b. Within 30 days:
 - i. Develop and maintain a vector control program;
 - ii. Register the facility as a generator of scrap tires;
 - iii. Obtain a scrap tire registration for the facility; or
 - iv. In lieu of Technical Requirements Nos. 2.b.ii. and 2.b.iii., reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers; or
 - v. Remove all MSW from the site and dispose of it at an authorized facility.
 - c. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 2.a. and 2.b.

Litigation Information

Date Petition(s) Filed:	May 8, 2020
Date Green Card(s) Signed:	May 11, 2020
Date Answer(s) Filed:	November 18, 2020
SOAH Referral Date:	April 21, 2021
Hearing Date(s):	
Preliminary hearing:	July 15, 2021 (Defaulted)

Dario Jaime Gonzalez dba Dario's Tire Shop

RN110294444 and RN110393667

Docket No. 2018-0832-MSW-E

Contact Information

TCEQ Attorneys: Megan Grace, Litigation, (512) 239-3400

Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation, (512) 239-2575

TCEQ Enforcement Coordinator: Ken Moller, Enforcement, (512) 239-6111

TCEQ Regional Contact: Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010

Respondent Contact: Ms. Zitalli Saray Cardiel Gonzalez, Authorized Agent for Dario Jaime Gonzalez, 221 East Juarez Avenue, Pharr, Texas 78577

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Apr-2018		
	PCW	12-Mar-2020	Screening	12-Jun-2018
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop
Reg. Ent. Ref. No.	RN110294444
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	56274	Order Type	1660
Docket No.	2018-0832-MSW-E	Government/Non-Profit	No
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Ken Moller
Multi-Media	Waste Tires	EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$2,605	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$20,100		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		Final Penalty Amount	\$22,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,500
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DEFERRAL	0.0%	Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY	\$22,500
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Screening Date	12-Jun-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110294444			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	12-Jun-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110294444			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 328.60(a) and 328.63(b) and Tex. Health & Safety Code § 361.112(a)

Violation Description
 Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 14,488 used or scrap tires were observed on the ground.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			Percent <input type="text" value="0.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="15.0%"/>
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Six monthly events are recommended from the December 18, 2017 investigation date to the June 12, 2018 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop
Case ID No. 56274
Reg. Ent. Reference No. RN110294444
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$20,100	18-Dec-2017	21-Jul-2020	2.59	\$2,605	n/a	\$2,605
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to obtain a scrap tire generator registration (\$100) and a scrap tire storage site registration (\$20,000) for the Facility. The date required is the date of the investigation, and the final date is the estimated date of compliance

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$20,100	TOTAL	\$2,605
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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Jul-2018	Screening	17-Jul-2018	EPA Due	
	PCW	24-Oct-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop		
Reg. Ent. Ref. No.	RN110393667		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	56274	No. of Violations	3
Docket No.	2018-0832-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,303
 Estimated Cost of Compliance: #NAME?
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

Final Penalty Amount	\$16,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,750
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$16,750
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Screening Date	17-Jul-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110393667			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	17-Jul-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110393667			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 328.56(a)(1) and 328.63(c) and Tex. Health and Safety Code 361.112(a)

Violation Description Failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the Facility. Also, failed to obtain a scrap tire storage site registration for the Facility prior to processing tires onsite. Specifically, approximately 1,540 used or scrap tires were observed on the ground.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm				Percent <input type="text" value="0.0%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="15.0%"/>
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended from the May 1, 2018 investigation date to the July 17, 2018 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop
Case ID No. 56274
Reg. Ent. Reference No. RN110393667
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$20,100	1-May-2018	21-Jul-2020	2.22	\$2,236	n/a	\$2,236
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to obtain a scrap tire generator registration (\$100) and a scrap tire storage site registration (\$20,000) for the Facility. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$20,100	TOTAL	\$2,236
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Screening Date	17-Jul-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110393667			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	x	
				Percent <input type="text" value="7.0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop
Case ID No. 56274
Reg. Ent. Reference No. RN110393667
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-May-2018	21-Jul-2020	2.22	\$11	n/a	\$11

Notes for DELAYED costs
 Estimated cost to develop and implement a vector control program. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$11

Screening Date	17-Jul-2018	Docket No.	2018-0832-MSW-E	PCW
Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	56274			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110393667			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent		<input type="text" value="0.0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
	Percent				<input type="text" value="15.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	x
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

0.0% Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop
Case ID No. 56274
Reg. Ent. Reference No. RN110393667
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	1-May-2018	21-Jul-2020	2.22	\$56	n/a	\$56
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to establish a record keeping system. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$56

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN603871096, RN110393667, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN603871096, Gonzalez, Dario Jaime **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110393667, Dario's Tire Shop **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 917 South Alamo Road, Alamo, Texas 78516-9312, Hidalgo County

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

TIRES REGISTRATION 140061

MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER
R15110393667

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: July 17, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 17, 2013 to July 17, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Ken Moller

Phone: (512) 239-6111

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 7/17/2013 and 7/17/2018

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period July 17, 2013 and July 17, 2018

N/A

For Informational Purposes Only

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN603871096, RN110294444, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN603871096, Gonzalez, Dario Jaime **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110294444, Dario's Tire Shop **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 5003 North Farm-to-Market Road 88, Weslaco, Texas 78599-3281, Hidalgo County

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER
R15110294444

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: June 04, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 04, 2013 to June 04, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Ken Moller

Phone: (512) 239-6111

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 6/4/2013 and 6/4/2018

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period June 04, 2013 and June 04, 2018

N/A

For Informational Purposes Only

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DARIO JAIME GONZALEZ DBA
DARIO'S TIRE SHOP;
RN110294444 AND RN110393667

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2018-0832-MSW-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Dario Jaime Gonzalez dba Dario's Tire Shop ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent operates Sites located at the following locations:
 - a. Dario's Tire Shop, 5003 North Farm-to-Market Road 88, Weslaco, Hidalgo County, Texas ("Site 1"); and
 - b. Dario's Tire Shop, 917 South Alamo Road, Alamo, Hidalgo County, Texas ("Site 2").The Sites contain and/or involve the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation of Site 1 conducted December 18, 2017 through January 2, 2018, an investigator documented that Respondent failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 14,488 used or scrap tires were observed on the ground.
3. During an investigation of Site 2 conducted on May 1, 2018, an investigator documented that Respondent:
 - a. Failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility. Specifically, approximately 1,540 used or scrap tires were observed on the ground;
 - b. Failed to obtain a scrap tire registration for the facility prior to processing tires onsite;
 - c. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks; and
 - d. Failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility. Specifically, Respondent did not complete information pertaining to the number of tires removed, generator registration number, or the destination of all used or scrap tires on their scrap tire manifests.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dario Jaime Gonzalez dba Dario's Tire Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on May 8, 2020.
5. Respondent's answer was filed on November 18, 2020, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 21, 2021.
6. On June 15, 2021, the TCEQ Chief Clerk mailed notice of the July 15, 2021, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
7. On July 15, 2021, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On August 25, 2021, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2 so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a).
3. As evidenced by Finding of Fact No. 3.a., Respondent failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.56(a)(1).
4. As evidenced by Finding of Fact No. 3.b., Respondent failed to obtain a scrap tire registration for the facility prior to processing tires onsite, in violation of 30 TEX. ADMIN. CODE § 328.63(c).
5. As evidenced by Finding of Fact No. 3.c., Respondent failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(4).
6. As evidenced by Finding of Fact No. 3.d., Respondent failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility, in violation of 30 TEX. ADMIN. CODE § 328.58(a).
7. As evidenced by Finding of Fact No. 5, an Answer was filed requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
8. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.

9. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of thirty-nine thousand two hundred fifty dollars (\$39,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of thirty-nine thousand two hundred fifty dollars (\$39,250.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Dario Jaime Gonzalez dba Dario's Tire Shop; Docket No. 2018-0832-MSW-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements at Site 1:
 - a. Immediately upon the effective date of this Order, cease storage, processing, or disposal of any additional MSW at the facility until such time as proper registration is obtained.
 - b. Within 30 days after the effective date of this Order:
 - i. Obtain a scrap tire storage site registration for the facility, in accordance with 30 TEX. ADMIN. CODE § 328.60.
 - ii. In lieu of Ordering Provision No. 3b.i. reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE § 328.60; or
 - iii. Remove all MSW from Site 1 and dispose of it at an authorized facility.
 - c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 5 below, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.

4. Respondent shall undertake the following technical requirements at Site 2:
 - a. Immediately upon the effective date of this Order:
 - i. Cease storing, processing, or disposing of any additional MSW at the facility until such time as proper registration is obtained; and
 - ii. Establish and implement a recordkeeping system that maintains a record of each individual load of used or scrap tires or tire pieces transported from the facility, in accordance with 30 TEX. ADMIN. CODE § 328.58(a).
 - b. Within 30 days after the effective date of this Order:
 - i. Develop and maintain a vector control program, in accordance with 30 TEX. ADMIN. CODE § 328.56;
 - ii. Register the facility as a generator of scrap tires, in accordance with 30 TEX. ADMIN. CODE § 328.56;
 - iii. Obtain a scrap tire registration for the facility, in accordance with 30 TEX. ADMIN. CODE § 328.63; or
 - iv. In lieu of Ordering Provision Nos. 4.b.ii. and 4.b.iii., reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE § 328.63; or
 - v. Remove all MSW from Site 2 and dispose of it at an authorized facility.
 - c. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 5 below to demonstrate compliance with Ordering Provision Nos. 4.a. and 4.b.
5. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

6. All relief not expressly granted in this Order is denied.
7. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site 1 and Site 2 operations referenced in this Order.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
9. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
10. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
11. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
13. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF ROSLYN DUBBERSTEIN

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dario Jaime Gonzalez dba Dario’s Tire Shop” (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on May 8, 2020.

Respondent’s answer was filed on November 18, 2020, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on April 21, 2021. On June 15, 2021, the TCEQ Chief Clerk mailed notice of the July 15, 2021 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on July 15, 2021. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV’T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 2, issued on August 25, 2021, so that TCEQ may dispose of this case on a default basis.”

"My name is Roslyn M. Dubberstein, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 19th day of October, 2021

A handwritten signature in black ink, appearing to read "RS Dubberstein".

Declarant